United Nations A/HRC/36/23

General Assembly

Distr.: General
26 July 2017

Original: English

Human Rights Council
Thirty-sixth session
11-29 September 2017
Agenda items 2 and 3
Annual Report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Right to development

Report of the Secretary-General and the United Nations High Commissioner for Human Rights

Summary

The present report contains a brief overview of the activities of the Office of the United Nations High Commissioner for Human Rights on the promotion and realization of the right to development from June 2016 to May 2017. The report also provides an analysis of the implementation of the right to development, taking into account existing challenges and making recommendations on how to overcome them. The report complements the report of the Secretary-General and the High Commissioner on the right to development submitted to the Human Rights Council at its thirty-third session (A/HRC/33/31).

GE.17-12715(E)

1712715

Please recycle

I. Introduction

1. In its resolution 48/141 establishing the post of United Nations High Commissioner for Human Rights, the General Assembly decided that the High Commissioner should, inter alia, promote and protect the realization of the right to development and enhance support from relevant bodies of the United Nations system for this purpose. The General Assembly also decided that the High Commissioner should recognize the importance of promoting balanced and sustainable development for all people and of ensuring the realization of the right to development, as established in the Declaration on the Right to Development.

2. The Human Rights Council, in its resolution 33/14, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to submit to the Council an annual report on its activities, including on inter-agency coordination within the United Nations system, that have direct relevance to the promotion and realization of the right to development, and to provide an analysis of the implementation of the right to development, taking into account existing challenges and making recommendations on how to overcome them (see sect. III).

3. In its resolution 71/192, the General Assembly reaffirmed its request to the High Commissioner, in mainstreaming the right to development, to effectively undertake activities aimed at strengthening the global partnership for development among Member States, development agencies and the international development, financial and trade institutions and to reflect those activities in detail in his next report to the Human Rights Council.

4. In the same resolution, the General Assembly requested the Secretary-General to submit a report to the Assembly at its seventy-second session and an interim report to the Human Rights Council on the implementation of the resolution, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development.

5. The present report is submitted in accordance with the above requests. It contains an overview of the activities of the Office relating to the promotion and realization of the right to development, covering the period from June 2016 to May 2017, and complements the report of the Secretary-General and the High Commissioner on the right to development submitted to the Human Rights Council at its thirty-third session (A/HRC/33/31). It includes an analysis of the implementation of the right to development, existing challenges and recommendations on how to overcome them.

II. Activities of the Office of the United Nations High Commissioner for Human Rights

6. In implementing its mandate to promote and protect the realization of the right to development, the Office is guided by the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council and agreed conclusions and recommendations of the Working Group on the Right to Development.

7. The OHCHR operational framework for promoting and protecting the realization of the right to development is contained in the Secretary-General's strategic framework for the period 2016-2017 and the OHCHR Management Plan for the period 2014-2017.[1]

[1] See A/69/6/Rev.1, pp. 465-466; OHCHR Management Plan 2014-2017: working for your rights, pp. 63-71; and A/HRC/27/27, paras. 6-13.

A. Support to the Working Group on the Right to Development and other relevant mandates

8. OHCHR provided support to the Working Group on the Right to Development for the organization of its eighteenth session,[2] held from 3 to 7 April 2017 (A/HRC/36/35). It also supported the Chair-Rapporteur during the intersessional period in holding informal consultations and presenting the report of the Working Group to the Human Rights Council and the General Assembly. At the request of the Council,[3] the Office facilitated the participation of experts to engage with the Working Group in the interactive dialogue mentioned below.

9. At its eighteenth session, the Working Group considered the report of the Secretary-General and the High Commissioner for Human Rights on the right to development. The Working Group discussed the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development and took note of a document submitted by the Non-Aligned Movement containing a proposal on a set of standards (A/HRC/WG.2/18/G/1). The Working Group also considered a document containing draft right to development criteria and operational subcriteria and agreed to finalize them as expeditiously as possible, preferably no later than at its nineteenth session. It agreed to undertake informal consultations to be convened by the Chair-Rapporteur, as and when required, with a view to advancing the finalization of these documents. At the same session, the Working Group held an interactive dialogue with experts on the implementation and realization of the right to development, including the implications of the 2030 Agenda for Sustainable Development, and possible engagement with the high-level political forum on sustainable development.[4]

10. OHCHR also supported relevant special procedure mandates, including the Special Rapporteur on the right to development. The present mandate holder took up his functions in May 2017.

B. Activities for the promotion and realization of the right to development

11. The year 2016 marked the thirtieth anniversary of the Declaration on the Right to Development. To mark the occasion OHCHR organized and supported numerous events and activities drawing attention to the importance of the right to development,[5] including in the context of the implementation of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals. Examples of major activities are summarized below.

12. In June 2016, the Office organized a panel discussion at the thirty-third session of the Human Rights Council, as requested by the Council in its resolution 31/4. The objective of the panel discussion was to increase awareness, including among relevant United Nations bodies, agencies, funds and programmes and other stakeholders, of the intrinsic value and distinct role of the right to development as an inalienable and independent human right by virtue of which all human rights can be fully realized (A/HRC/33/21). In his opening statement, the High Commissioner underscored the importance of the 2030 Agenda and its role in addressing the systemic obstructions and multiple challenges facing the right to development. He noted that, at the international level, the failure to adequately regulate globalization could affect the pursuit of inclusive development, which compromised basic human rights in relation to food, water and sanitation, health, equity and democratic decision-making. He called for a renewed spirit of multilateral action for

[2] See www.ohchr.org/EN/Issues/Development/Pages/18thSession.aspx.

[3] Resolution 33/14.

[4] Expert presentations are available at www.ohchr.org/EN/Issues/Development/Pages/18thSession.aspx.

[5] More information on these and other activities is available at www.ohchr.org/EN/Issues/Development/Pages/DevelopmentIndex.aspx.

the common good, recognizing that efforts to reduce towering inequalities would help the marginalized and the poor.[6]

13. In September, the President of the seventy-first session of the General Assembly convened the high-level segment of the Assembly to commemorate the thirtieth anniversary of the Declaration on the Right to Development.[7] The Secretary-General, the High Commissioner and the Secretary-General of the United Nations Conference on Trade and Development participated in the opening segment, which was followed by a general debate among Member States. The one-day event focused on the measures and policies required to promote effective international cooperation for the realization of the right to development, as well as the importance and added value of the right to development in achieving the Sustainable Development Goals. The event provided an opportunity to discuss efforts to fulfil the right to development and the importance of consensual understanding of the right to development based on the experience, progress and challenges encountered in the last 30 years.

14. In October, the Office organized, jointly with the Independent Permanent Human Rights Commission of the Organization of Islamic Cooperation and the Government of the United Arab Emirates, a two-day international seminar entitled "The right to development — 30 years after", in Abu Dhabi. The Commission welcomed renewed reflection and joint action by all stakeholders to ensure that all people had an equal opportunity to participate in, contribute to and enjoy economic, social and cultural rights, thereby also supporting the establishment of inclusive, equitable, just and peaceful societies. In the Abu Dhabi Declaration on the Right to Development,[8] adopted at the seminar, participants reaffirmed States' national, international and collective obligations with respect to the effective implementation of the right to development, and recalled the importance of international cooperation against corruption and of good governance through free, active and meaningful participation in policymaking.

15. To mark the thirtieth anniversary of the Declaration, and in addition to the international expert meeting held in Geneva in March (see A/HRC/33/31, para. 22), OHCHR organized another such meeting in New York in October 2016. This event, entitled "Development frontlines: of rights, justice and fairness", served as an opportunity to analyse contemporary development challenges and discuss how innovative development solutions were being forged at varying levels and scales. It also addressed legitimacy and accountability deficits in global governance and in the economic realm.[9]

16. OHCHR initiated and supported the issuance of two statements reaffirming the right to development. In September, the United Nations Development Group Human Rights Working Group issued a joint statement recognizing that, while the 2030 Agenda is a powerful vehicle for the realization of the right to development, operationalizing its commitment to leave no one behind demands a coherent and integrated United Nations system-wide approach that is underpinned by the principles inherent in the Declaration.[10]

17. In December 2016, 16 special procedure mandate holders issued a joint statement in which they called upon Governments to move rapidly beyond rhetoric and political differences to make the right to development a reality for all.[11]

18. To advance awareness, develop the resource base and build capacity on the right to development, OHCHR issued several anniversary information notes on the relationship between the right to development and, respectively, international cooperation, indigenous peoples, persons with disabilities, children and youth, peace, and taxation.[12] Furthermore, OHCHR produced a second anniversary video, *The Right to Development for Everyone*.

[6] See www.ohchr.org/EN/Issues/Development/Pages/PaneldiscussionPresentationsandstatements.aspx.
[7] See http://sdg.iisd.org/events/unga-high-level-segment-on-the-right-to-development/.
[8] See www.oic-iphrc.org/en/data/docs/articles_studies/iphrc_abu_dhabi_outcome_2016.pdf.
[9] See www.ohchr.org/EN/Issues/Development/Pages/PanelEventDeclarationontheRtoDat30.aspx; and http://www.ohchr.org/EN/Issues/Development/Pages/PanelEventDeclarationontheRtoDat30.aspx.
[10] See www.ohchr.org/Documents/Issues/RtD/UNDG_HRWG.pdf.
[11] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20973.
[12] Available at www.ohchr.org/EN/Issues/Development/Pages/InformationMaterials.aspx.

Everywhere,[13] which was used to launch a social media campaign to coincide with the high-level segment of the General Assembly referred to above. The first OHCHR video dedicated to the right to development, entitled *Development is a Human Right*,[14] was screened at anniversary events throughout the year.

19. In August, OHCHR participated in the World Social Forum, held in Montreal, Canada, and gave a presentation on investment and human rights, including the right to development, at a workshop on investment chapters in trade agreements and how investors can be held responsible for damages caused by their activities in host countries.[15] The presentation emphasized that investment treaties could violate the right to development by, firstly, often giving priority to investors' interests over the human rights to health, water and sanitation, among others, and impeding effective mobilization of the maximum available resources for the realization of human rights; and, secondly, failing to be transparent and open to participation by those potentially affected. It stressed that participation must take place in conjunction with strengthening people's bargaining power within these treaties to act, negotiate and manoeuvre; otherwise, formal participation would be meaningless, and deeply disempowering. In March 2017, OHCHR gave a presentation on trade, business and human rights at an event held in the European Parliament. The discussion focused on specific proposals to enable trade to promote human rights and how trade could incentivize reform on the ground.

20. In partnership with the Economic Commission for Africa and the Friedrich-Ebert-Stiftung, OHCHR is in the process of completing a human rights impact assessment of the Continental Free Trade Area agreement for Africa, to inform and feed into the negotiations. This includes three case studies focused on agriculture and food security, agro-manufacturing and informal cross-border traders. The impact assessment will provide recommendations to relevant stakeholders for preventing or mitigating negative impacts in these areas.[16]

21. In collaboration with the United Nations-mandated University for Peace, in Costa Rica and the United Nations University International Institute for Global Health, in Malaysia, OHCHR is in the process of completing an interactive e-learning module on operationalizing the right to development in implementing the Sustainable Development Goals. This project brings together substantive contributions from academic experts worldwide with a view to promoting education, integration and capacity-building on the right to development and enhancing its impact in research, policymaking and development practice. The module is expected to be launched in the course of the current year for use and reference by Governments, intergovernmental organizations, non-governmental organizations and other stakeholders.

III. Analysis of the implementation of the right to development, existing challenges and recommendations to overcome them

22. As defined in the Declaration on the Right to Development, "development" is a comprehensive process that advances all interdependent, interrelated and indivisible human rights and fundamental freedoms. The right to development aims at the constant improvement of the well-being of the entire population and of all individuals. It makes the human person the central subject, active participant and beneficiary of development. Everyone is entitled to free, active and meaningful participation in development. The right to development calls for social justice and equity, as it requires the fair distribution of the benefits of development, including income, and equal opportunity in access to basic resources and services. It also entitles women to play an active role in the development process.

[13] See www.youtube.com/watch?v=15uRcIbKq5A.

[14] See www.youtube.com/watch?v=pdKfypBTtdI.

[15] See https://fsm2016.org/en/activities/investment-chapters-in-trade-agreements-from-rights-to-responsibilities/.

[16] See www.ohchr.org/Documents/Issues/Globalization/ScopingStudyMay2016.pdf.

23. The Declaration calls for an appropriate political, social and economic order for development, appropriate national and international development policies and appropriate economic and social reforms to eradicate social injustice. It recognizes that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and calls for sustained action for the comprehensive development of developing countries. It invests States with the duty to cooperate effectively to establish an enabling environment for development; to eliminate obstacles to development; and to support international peace, security and disarmament, and to use the released resources for comprehensive development, especially in developing countries. States, acting individually and collectively, bear the primary responsibility for guaranteeing the right to development, while all human beings have a responsibility for development and duties to the community.

24. The implementation of the right to development is an ongoing process for all countries. The Working Group on the Right to Development considers that the following factors contribute to its realization: an open, equitable, rules-based, predictable and non-discriminatory multilateral trading system; sustained economic growth; continued partnerships for development; the evolution, assessment and dissemination of practical and specific measures at the national and international levels; integration of the principles underlying the Declaration within the policies and programmes of the multilateral development and financial institutions; a rights-based approach to economic growth and development; good governance and the rule of law at both national and international levels; responsiveness on the part of States to vulnerable and marginalized groups; and the realization of civil, cultural, economic, political and social rights (see A/66/216, paras. 22-23).

25. Nevertheless, conceptual, political and strategic challenges to the practical implementation of the right to development remain. As far back as 2004, the Working Group considered that further conceptual clarification, improved strategic coherence and coordination of policies and programmes, and increased political commitment were required for its full realization (see E/CN.4/2004/23 and Corr.1, para. 43 (h)); this still holds true today. States remain divided in their views. There is disagreement on the nature of the duties of States to realize the right to development as well as on the relative emphasis to be placed on the national dimension of State obligations (individual rights and corresponding State responsibilities, rule of law, good governance, anti-corruption, etc.) compared to obligations of international cooperation (international responsibilities, international order, development cooperation, global governance, etc.). There are also differences of opinion among States regarding criteria to measure progress towards implementing the right to development.[17] Some countries advocate the development of a comprehensive and coherent set of standards as a basis for a legally binding instrument, while others express a preference for non-binding guidelines. These differences have challenged progress in the intergovernmental debate at the relevant United Nations forums, such as the General Assembly, the Human Rights Council and the Working Group.[18] The lack of consensus among Member States constitutes a major obstacle in implementing this right.

26. With regard to the realities on the ground, some progress has been made in global efforts towards realizing the vision of the Declaration. However, progress has been uneven, particularly for people in Africa, least developed countries, landlocked developing countries and small island developing States.[19] Globally, persistent poverty and rising inequalities remain among the many interconnected threats to peace and security, human rights and development.

[17] The high-level task force on the implementation of the right to development has developed criteria and subcriteria for operationalizing the right to development for review by the Working Group. See A/HRC/15/WG.2/TF/2/Add.2.

[18] For a detailed account of the debate, see the annual reports of the Working Group, available at www.ohchr.org/EN/Issues/Development/Pages/WGRightToDevelopment.aspx.

[19] See General Assembly resolution 70/1.

27. In the absence of specific benchmarks for the implementation of the right to development, *The Sustainable Development Goals Report 2016*[9] and the note by the Secretary-General on progress and prospects in financing for development (E/FFDF/2017/2) complement the Declaration and provide some valuable guidance.

Poverty and rising inequalities

28. The Declaration advocates people-centred development aimed at the realization of all rights and freedoms in the development process and enhanced well-being for all individuals and peoples, encompassing a holistic paradigm that is also reflected in the 2030 Agenda. In 2012, one in eight people still lived in extreme poverty. Only one in five people in low-income countries and two in three in upper-middle-income countries enjoyed social assistance or social protection benefits.[10] This situation points, inter alia, to a lack of policies which are conducive to favourable development conditions, as required by the Declaration.

29. Much remains to be done to realize basic rights, including the rights to food, water, shelter, health and education. Although it has declined, more than 790 million people still suffer from hunger. One in four children under the age of 5 had stunted growth in 2014. Under-5 mortality rates have declined by more than half since the 1990s, but still account for 43 deaths for every 1,000 live births. Despite a decline in the incidence of some communicable diseases, sub-Saharan Africa still accounts for a disproportionately high percentage of, inter alia, HIV and malaria cases. As of 2013, 59 million children of primary school age were out of school and 757 million adults were unable to read and write, two thirds of them women (E/2016/75).

30. The impacts of poverty and lack of access to economic, social and cultural rights are further exemplified by the statistics on access to water and sanitation: 663 million people still use unimproved water sources, 2.4 billion are without improved sanitation and 2 billion worldwide are affected by water stress. Although more than a billion people still lacked access to electricity in 2012, between 2010 and 2012 there was an increase of 4 per cent a year in access to modern renewables. The Declaration recognizes the importance of an active role for women in development but globally, women still spend more than twice as much time as men in unpaid labour and, as of 2016, comprised only 23 per cent of national parliamentarians. Concerted measures towards effective solutions are needed at all levels to implement the Declaration in operationalizing the 2030 Agenda (ibid.).

31. Recent studies indicate that inequalities are rising and pose a growing threat to development.[11] Since 2015, the richest 1 per cent has owned more wealth than the other 99 per cent. Eight men now own the same amount of wealth as that owned by 3.6 billion others, the poorer half of the world. Over the next 20 years, it is projected that 500 people will hand over $2.1 trillion to their heirs, a sum larger than the gross domestic product of India, a country of 1.3 billion people. The incomes of the poorest 10 per cent increased by less than $3 a year between 1988 and 2011, while those of the richest 1 per cent increased 182 times as much. This clearly runs counter to the paradigm for development contained in the Declaration for the individual and collective well-being of all individuals, peoples and nations. The rising tide of inequality, including wealth inequality, contradicts the commitment made in the Declaration to an international, economic, political and social order in which all rights and freedoms can be realized for all.

[9] United Nations publication, Sales No. E.16.I.8.

[10] See the report of the Secretary-General on progress towards the Sustainable Development Goals (E/2016/75) and International Labour Organization, *World Social Protection Report 2014/15*.

[11] See, e.g., Oxfam Briefing Paper, "An economy for the 99%", January 2017, available at www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-economy-for-99-percent-160117-en.pdf; World Economic Forum, *The Global Risks Report 2017*, available at www.weforum.org/reports/the-global-risks-report-2017; Organization for Economic Cooperation and Development, *In It Together: Why Less Inequality Benefits All* (Paris, 2015), available at www.oecd.org/social/in-it-together-why-less-inequality-benefits-all-9789264235120-en.htm.

International cooperation and resource constraints

32. In recent years the volume of official development assistance (ODA) reflected an incremental trend, and in 2016 witnessed a new peak of $142.6 billion. However, this figure lagged substantially behind the call contained in the Monterrey Consensus of the International Conference on Financing for Development for 0.7 per cent of the gross national product (GNP) of developed countries to be devoted to ODA to developing countries and for 0.15 to 0.20 per cent to least developed countries.[23] While these targets have been reiterated in the 2030 Agenda, most donor countries are still falling behind. Bilateral aid to least developed countries has actually declined by 3.9 per cent.[24] This may be related to the fact that much of the new aid has been redirected to cover increased in-donor-country refugee costs.[25] Ultimately, if Member States use their ODA to cover in-donor refugee costs and do not increase the level of their ODA accordingly, fewer resources will be available for development cooperation activities in developing countries.[26] This constitutes an obstacle to effective international cooperation for comprehensive development as foreseen in articles 3, 4 and 6 of the Declaration and must be redressed, in tandem with implementing the Addis Ababa Action Agenda of the Third International Conference on Financing for Development,[27] which the General Assembly endorsed as an integral part of the 2030 Agenda and is critical for the realization of the Sustainable Development Goals with regard to the means of implementation.[28]

33. A number of challenges to the implementation of the right to development are centred on issues of resource constraints and related national and international policies. Some factors affecting the availability of resources are slow economic growth, tax avoidance and evasion, corruption, illicit financial flows and lack of capacity. These constraints affect the ability of Governments to adopt development policies that leave no one behind and take concrete steps to end poverty, in line with the requirement in the Declaration of national and international development policies aimed at human well-being. Successful implementation of the right to development and the Sustainable Development Goals, in particular goal 8 on decent work, employment and sustainable and inclusive economic growth and goal 9 on inclusive and sustainable industrialization, relies in part on changing the current dynamic of economic growth. In 2016, the growth rate was at its lowest since the financial crisis, but improvements are projected for 2017 and 2018. The low growth rate, combined with demographic changes, has led to an estimated increase in global unemployment to 200 million people in 2017 (E/FFDF/2017/2).

34. The means of implementing the right to development include economic and social reforms at the national and international levels, outlined in articles 8 and 10 of the Declaration. The Addis Ababa Action Agenda calls for increased accountability for development financing commitments (para. 58), including accountability for businesses (paras. 35 and 37); renews pledges to provide a social protection floor for everyone (para. 12); establishes a new Technology Facilitation Mechanism (para. 123); and includes, for the first time, a follow-up and review mechanism for financing development (paras. 130-134). The implementation of the Action Agenda requires an international system of financing for development that is just, equitable, cooperative, transparent and accountable that integrates human rights and that puts the people at the centre of the development goals.[29]

35. Increasing revenue mobilization in developing countries is not enough if their resources are simultaneously drained as a result of illicit activity. The Addis Ababa Action

---

[23] *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex, para. 42.

[24] See www.oecd.org/dac/development-aid-rises-again-in-2016-but-flows-to-poorest-countries-dip.htm.

[25] Ibid.

[26] See www.oecd.org/dac/financing-sustainable-development/In-donor-refugee-costs-in-ODA.pdf.

[27] General Assembly resolution 69/313, annex.

[28] See General Assembly resolution 70/1.

[29] OHCHR, *Frequently Asked Questions on the Right to Development*, Fact Sheet No. 37, 2016, pp. 14-15.

Agenda calls for strengthening the rule of law and combating corruption at all levels, as well as the elimination of illicit financial flows. However, measuring and tracking illicit financial flows are extremely challenging, in part because of a lack of an intergovernmental agreement on a conceptual framework defining illicit financial flows. It is important for countries to strengthen existing institutions and enforcement of the law to improve the design and functioning of effective, progressive, inclusive and transparent national tax systems (ibid.)

36. Competition for foreign investment can drive States to offer lower taxes and more attractive tax incentives for business.[30] Transnational corporations can exploit the tax codes in different States in which they operate to avoid or evade taxes. Today, it is estimated that about $7.6 trillion of personal wealth is said to be hidden in tax shelters, with a devastating impact on tax revenues, in particular in poorer countries. Developing countries are estimated to be losing at least $170 billion a year to tax havens.[31] In order to achieve equitable, people-centred development, tax systems must be progressive, transparent, accountable and effective.[32]

37. Some developing countries facing severe debt issues have been subjected to structural adjustment programmes promoted by international financial institutions. These have, in some instances, compromised a core principle of the right to development, which is that all individuals and peoples are entitled to participate in, contribute to and enjoy the benefits of development. The duty of international cooperation, which underscores the Declaration, must be operationalized in implementing the 2030 Agenda, including Sustainable Development Goal 17 on strengthening the means of implementation and revitalizing the global partnership for sustainable development, together with the Addis Ababa Action Agenda, in a mutually reinforcing manner. The ongoing development of a declaration on the right of peoples and individuals to international solidarity[33] provides another step in efforts to realize the right to development, which is both underpinned by and dependent on international solidarity for its meaningful implementation.

38. According to article 3 of the Declaration, States are obliged to cooperate with each other in eliminating obstacles to development and to create favourable conditions for the realization of the right to development at the national and international levels. The imposition of unilateral coercive measures may have implications for people's right to development. (A/HRC/30/45).

Conflicts, natural disasters, climate change and participation in global governance

39. Conflict and war entail massive violations of human rights, in contravention of the right to development. In 2015, 65.6 million people were displaced by conflict and persecution.[34] The costs of war and military spending stand in the way of realizing the right to development.[35] Article 7 of the Declaration is pertinent in its call for measures for peace and disarmament, and the redirection of savings from disarmament into development. The integrated framework of the Declaration provides a viable response to the Secretary-General's vision for Peacebuilding and Sustaining Peace, going beyond conflict resolution, and is complemented by Sustainable Development Goal 16 on promoting inclusive and peaceful societies. Just as conflict undermines development, poverty and underdevelopment are root causes, as well as drivers, of conflict.

40. The figures related to migration and forced displacement are also expected to rise due to increasingly frequent natural disasters, many of which are induced by climate

[30] See www.ohchr.org/Documents/Issues/RtD/InfoNote_Taxation.pdf.

[31] See www.oxfam.org/en/even-it/inequality-and-poverty-hidden-costs-tax-dodging and A/HRC/31/61, paras. 7 ff.

[32] See www.ohchr.org/Documents/Issues/RtD/InfoNote_Taxation.pd.

[33] See www.ohchr.org/EN/Issues/Solidarity/Pages/IESolidarityIndex.aspx.

[34] See www.unhcr.org/globaltrends2016/.

[35] Information note on the right to development and peace, available at www.ohchr.org/EN/Issues/Development/Pages/DevelopmentIndex.aspx.

change, which, it is estimated, will displace 200 million people by 2050.[16] From 2000 to 2013, an average of 83,000 people died each year and 211 million were affected by natural disasters. The adverse impacts of climate change pose visible challenges and obstacles for States, particularly developing countries, to achieving sustainable development. Climate change will demand substantial resources to mitigate its effects, reduce net greenhouse gas emissions[17] and promote environmentally sound technologies. Paradoxically, the poorest people in developing countries, who contributed least to climate change, are most vulnerable to its adverse impacts.[18] This is due to their geographical location and lesser ability to cope with damage from severe weather and slow-onset effects of climate change, often affecting, inter alia, their rights to food, health and development (A/HRC/31/52). Implementation of the right to development must be integral to operationalizing the Paris Agreement, the Sendai Framework for Disaster Risk Reduction 2015-2030 and Sustainable Development Goals 12-15 on climate and the environment.

41. Long-standing systemic asymmetries in global governance have a direct impact on the implementation and realization of the right to development. The under- or non-representation of developing countries in key forums on global governance undermines the effectiveness of such forums. The adoption of policies affecting development involves conflicting interests, making trade-offs and setting priorities across and within countries and, as such, encompasses issues of bargaining and problems of execution. Without more inclusive, democratic and participatory decision-making processes on key questions relating to development at the national and international levels, those absent or those whose voices are less well heard will remain on the margins of the benefits of development.

42. Sustainable Development Goal 17 on the implementation and revitalization of the global partnership for sustainable development deals with, inter alia, the need to enhance global macroeconomic stability, including through policy coordination and coherence. Addressing systemic issues is also a cornerstone of the Addis Ababa Action Agenda, wherein Member States agreed to take measures to improve and enhance global economic governance and to arrive at a stronger, more coherent, inclusive and representative international architecture for sustainable development. Member States further resolved to strengthen the coherence and consistency of multilateral financial, investment, trade and development policy, as well as environment institutions and platforms, and to increase cooperation between major international institutions. The promise of equality of opportunity and outcomes for all nations and individuals contained in the Declaration makes it imperative to include the voice of developing countries in international processes of economic decision-making and norm-setting, including in the World Bank (see A/70/274), the International Monetary Fund and international regulatory standard-setting bodies such as the Basel Committee on Banking Supervision.

43. At the World Trade Organization (WTO), decisions are made primarily by consensus and single undertaking. However, at times, decisions of the WTO dispute settlement body[19] have been called into question, highlighting potentially negative implications for the sustainable development policies of developing countries (see A/HRC/33/40, paras. 70-72). The current round of negotiations, the Doha Development Agenda, brought to the debate several important measures for implementing the right to development, including access to patented medicines and strengthening special and differential treatment for developing countries and least developed countries, as well as flexibility for the latter countries in implementing trade liberalization measures. However, this round has largely stalled, despite some limited breakthroughs. With the apparent deadlock in the Doha Round, bilateral investment treaties and free trade agreements have

[16] See chapter 12, Human security, in *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, available at www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap12_FINAL.pdf.

[17] See the full *Working Group III Contribution to the Fifth Assessment Report*, available at www.ipcc.ch/pdf/assessment-report/ar5/wg3/ipcc_wg3_ar5_full.pdf.

[18] See www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages_on_HR_CC.pdf.

[19] See, for example, document WT/DS456/AB/R.

become the preferred strategy to promote trade liberalization. Such treaties present opportunities for development by fostering economic activity and attracting a much-needed influx of investments to development projects.

44. Yet, free trade agreement and bilateral investment treaty negotiations may present challenges to the right to development given the uneven bargaining power of the parties with different levels of economic and technological development and capacities, and concerns among some countries about the transparency of negotiating processes. Human rights impact assessments offer an opportunity to address the question of whether free trade agreements and bilateral investment treaties are in accordance with the human rights obligations of States.[40] Such impact assessments should, at a minimum, involve independence, transparency, inclusive participation, and expertise and funding, and have the capacity to effectively influence policymakers (see A/HRC/19/59/Add.5, appendix, para. 4). These concerns together make a strong case for expanding the democratic space to the optimum.

45. Concerns have also been raised that free trade agreements and/or bilateral investment treaties may have a number of retrogressive effects on the protection and promotion of human rights, including by lowering the threshold of health protection, food safety and labour standards. Investment agreements might aggravate extreme poverty, jeopardize fair and efficient foreign debt renegotiation and affect the rights of indigenous peoples, minorities, persons with disabilities, older persons and others in vulnerable situations.[41] Without assessments of potential human rights impacts, free trade agreements and bilateral investment treaties might jeopardize the call contained in the Declaration for an enabling environment for development, an element that is also essential to realizing the Sustainable Development Goals.

46. Increased foreign direct investment flows to developing countries can contribute to reducing poverty and promoting prosperity. However, whether this happens depends on the nature of the strategies pursued to attract these investments and whether investments are made in a responsible manner, i.e., whether they are conducive to social development, protective of the environment and respectful of the rule of law and fiscal obligations in host countries. Investors and States must ensure that profit considerations do not trump human rights protection (see E/CN.4/2006/26, para. 59). Some businesses have been shown to avoid paying their share of tax by storing their wealth in offshore tax havens,[42] in direct contravention of the fair distribution of development benefits required under the Declaration. The capacity of some States to ensure that transnational corporations do not breach labour or environmental standards, or jeopardize their capacity to seek remedies and adopt other policies to protect and promote the right to development and the economic, social and cultural rights of their populations, is limited. Individuals and peoples deserve protection and remedies against corporate abuse, land grabbing and exploitation (see A/HRC/33/40, para. 77).

47. The Guiding Principles on Business and Human Rights provide a framework applicable to all business enterprises for how to prevent and address human rights abuse linked to business activities.[43] In 2014, the Human Rights Council created an intergovernmental working group to draft a legally binding instrument on the human rights obligations of transnational corporations.[44] Special procedure mandate holders have argued that such an instrument could provide a normative framework aimed at ensuring that transnational corporations contribute to development. They have also suggested that any

[40] See the guiding principles on human rights impact assessments of trade and investment agreements (A/HRC/19/59/Add.5).

[41] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031.

[42] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21539&LangID=E.

[43] Since 2014, OHCHR has launched two projects aimed at creating a fairer and more effective system of domestic law remedies in cases of serious corporate-related human rights abuses and providing credible and workable guidance to States on the matter. For more information, see www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/RemedyProject2.pdf.

[44] Resolution 26/9. For more information, see www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOnTNC.aspx.

new instrument regulating the conduct of transnational corporations and other business enterprises should address the extraterritorial human rights obligations of States with regard to their duty to control the corporations they are in a position to influence, wherever those corporations operate; ensure access to effective remedies; and accord priority to human rights obligations over investors' rights (see A/HRC/33/40, paras. 77-84).[45] The Declaration invests everyone (including non-State actors) with duties to the community with regard to comprehensive development, including social justice and fair distribution of benefits. Extraterritorial human rights obligations are intrinsic to the international dimensions of the right to development.

IV. Conclusions and recommendations

48. **The present report identifies some of the major challenges encountered in the implementation of the right to development, primarily at the international level. Implementation of the right to development requires fundamental changes in global financial, economic and development policies, with a view to creating an enabling environment for development, particularly in developing countries. Previous analyses have identified certain challenges that must be overcome, including the political impasse in the intergovernmental debate which has limited the engagement of civil society and the agencies of the United Nations system (see A/HRC/19/45, paras. 23-25).**

49. **The international community is faced with ever-increasing challenges, among them the global economic crisis, shrinking policy space through privatization and unregulated activities of transnational corporations, gross violations of human rights, armed conflicts, climate change, xenophobia and mass migrations. The right to development provides guidance that has the potential to address these interlinked national and international challenges and prevent them from deteriorating. The right to development must be central to the operationalization of the global policy outcomes of 2015, including the 2030 Agenda for Sustainable Development, the Addis Ababa Action Agenda, the Paris Agreement and the Sendai Framework for Disaster Risk Reduction 2015-2030, just as their operationalization will help realize the right to development in a mutually reinforcing way forward.**

50. **The indicators framework for measuring progress in implementing the Sustainable Development Goals is an important source, although not a substitute, for assessing progress in the implementation of the right to development. Any gaps in the framework, including the lack of targets and indicators on strengthening the means of implementation and revitalizing the global partnership for sustainable development,[46] as well as on inequalities between countries,[47] must be addressed from the perspective of the right to development. The Declaration on the Right to Development provides an integrated framework that recognizes the indivisibility of civil, political, economic, social and cultural rights; the interconnection of national and international governance; and the interdependence of human rights, peace and sustainable development. Faced with the rising tide of inequalities between and within countries, it is essential to recommit to multilateralism, international cooperation, and equality and non-discrimination at all levels.[48]**

51. **It is imperative to ensure that the environment in which businesses operate supports rather than undermines the right to development and its implementation. This includes taking effective action to ensure decent work and respect for human rights in global supply chains through the implementation of relevant international human rights and labour instruments and standards. It also means improving**

[45] See also www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session1/SR_STATEMENT_IWG.pdf.

[46] See Sustainable Development Goal 17.

[47] See Sustainable Development Goal 10.

[48] This corresponds to Sustainable Development Goals 10, 16 and 17.

international cooperation to combat illicit financial flows and tax avoidance strategies that exploit gaps and inconsistent tax rules. In mobilizing resources for development through partnerships with the private sector, full consideration should be given to relevant human rights instruments and standards, including the Guiding Principles on Business and Human Rights. Such consideration could usefully inform negotiations on a legally binding instrument to effectively regulate the activities of transnational corporations and other business enterprises.[49]

52. **A fair and progressive system of taxation will help mitigate global inequalities while liberating more resources and policy space for effective development programmes. Just and equitable collection of taxes is essential to realizing the right to development. Progressive tax reforms could tackle tax avoidance and evasion by companies and wealthy individuals who make use of tax havens. These steps will help release resources and improve the transparency and accountability of financial flows, and rectify any unlawful activity and redistribute the benefits to people in need.**[50]

53. **Reform of international trade and investment through the incorporation of human rights and environmental protections to prevent their adverse effects and distribute their benefits fairly will enhance implementation of the right to development. Human rights impact assessments that collect disaggregated data need to be carried out in relation to all trade deals and should address their impacts on the enjoyment of all rights.**[51]

54. **Developing countries faced with severe debt burdens must have a voice and the ability to preserve their national sovereignty when structural adjustment programmes and similar economic reforms are imposed on them by international institutions. Their right to full and complete sovereignty over all their natural wealth and resources must be protected. Measures must be adopted to insulate basic needs, such as food security, from global market price fluctuations.**[52]

55. **The public sector must be revitalized to create policy space for development and ensure social protection for the poor. Privatization of health, education, social security, water, and personal liberty and security services must not take place at the expense of equitable access to these services and the protection of human rights, and should be subject to human rights impact assessments.**[53]

56. **The principles of equity and common but differentiated responsibilities are critical to implementing and realizing the right to development in the context of the inequitable distribution of wealth and power between developing and developed countries. The international community should address the modalities relating to financing for development and States should meet their ODA commitments in order to help those in need and sustain efforts to end poverty by 2030.**[54]

57. **Economic growth and development are not ends in themselves but means to realize human rights. The success of development cannot be measured by economic factors alone. The right to development provides a performance standard for assessing comprehensive development, which must be sustainable, with due regard for consumption and production patterns, the use and transfer of environmentally friendly technologies and the production of clean energy. It also requires active, free and meaningful participation of the entire population in the development process and fair distribution of the benefits of development,**[55] **which in turn call for enhanced democratic space to increase civil society involvement in all relevant forums and processes within the scope of the right to development, both locally and globally.**

---

[49] This corresponds to Sustainable Development Goals 8 and 17.

[50] This corresponds to Sustainable Development Goals 1, 8, 10 and 17.

[51] This corresponds to Sustainable Development Goals 1, 10, 12, 13, 14, 15 and 17.

[52] This corresponds to Sustainable Development Goals 1, 8 and 10.

[53] This corresponds to Sustainable Development Goals 1, 2, 3, 4, 6 and 16.

[54] This corresponds to Sustainable Development Goals 1, 10 and 17.

[55] This corresponds to Sustainable Development Goals 1, 7, 8, 9, 10, 12, 13, 14, 15 and 16.

58. **Structural transformation is at the heart of the 2030 Agenda and involves, inter alia, the linkages between industrialization, infrastructure, technology and trade regimes. Equal opportunities for sustainable development require the removal of structural obstacles which impede access to technology and innovation.**[56]

59. **States should take resolute steps to put an end to xenophobia, racism, racial and gender-based discrimination and all other legal and political practices that perpetuate inequality, including between States, and infringe on the realization of the right to development and the sustainable development agenda.**[57]

60. **In the current global political climate, it is essential to win the battle of ideas and to develop a counter-narrative that promotes the reciprocal and global benefits of international development and a rights-based approach to development at all levels, with the right to development at its heart.**[58]

61. **In line with articles 3, 4 and 6 of the Declaration, the international community needs to foster effective international cooperation for development and create an enabling environment for development, including supportive policies to increase public and private investment in sustainable development which will in turn generate employment opportunities (E/FFDF/2017/2). This can be achieved by ensuring a rights-based approach to development and through effective and sustained partnerships.**[59]

62. **While the world is witnessing unparalleled technological progress, inequality has increased substantially. The Declaration on the Right to Development contains essential elements for the process of Peacebuilding and Sustaining Peace. Its normative framework addresses the interfaces of peace, security, human rights and development with the aim of addressing root causes of conflict and inequality, achieving peace and sustainable development, and ultimately ensuring that no one is left behind.**

---

[56] This corresponds to Sustainable Development Goals 8, 9, 10 and 17.

[57] This corresponds to Sustainable Development Goals 5, 10, 16 and 17.

[58] This corresponds to Sustainable Development Goals 1 and 17.

[59] See See http://www.ohchr.org/Documents/Issues/Development/RightsCrisis/E-2013-82_en.pdf.